

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/932,543 09/17/97 KAWAKURA

Y 1701.39203

WM02/1002

EXAMINER

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WASHINGTON DC 20001-4597

MILLER, J

ART UNIT

PAPER NUMBER

2611

DATE MAILED:

10/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/932,543</b>	Applicant(s) <b>Kawakura et al</b>
	Examiner <b>John W. Miller</b>	Art Unit <b>2611</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_
- 2a)  This action is FINAL.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 835 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-18 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a)  All b)  Some\* c)  None of:
1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15)  Notice of References Cited (PTO-892)                            18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                            19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2                            20)  Other: \_\_\_\_\_

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***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by McMullan, Jr. et al (5,654,746).

As to claim 1, note the McMullan, Jr. et al reference which discloses digital music and game delivery system. The reference further discloses that the system may be configured to deliver software, such as a software tax package, and other data, such as stock market quotations and sports results, col. 11, lines 13-19. A subscriber's home may be provided with a cable television service terminal, a digital music tuner for digital music services, a game adapter 177, a home computer terminal, a telecommunications terminal, and/or other home communications terminal apparatus. The RF input 201 may be provided in common to any of a plurality of such devices. For game delivery in particular, the device is configured for the delivery of game data upon the request of the user. The reference discloses that the game controller ASIC 200, a secure state machine, includes a decoder 301 and transaction control unit 302 which receives transaction data from the decoder 301, and further manages authorization maps and game timers. Game data

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in consequently processed for execution. For the other terminal devices noted above, it can inferred that the data would be output by speakers (in the case of music), executed or made available for execution by a computer terminal (in the case of software), etc. Further, as noted above, the ASIC 200 operates based on game timers. Particularly, the reference discloses a weekend rental which would be authorized during an approximately 48 hour period starting on 7 PM on Friday. This form of rental mode download is governed by a Rental Active Map. The device will not perform a download resulting in the decoding and execution of a game unless (or alternatively the decoding and execution of a software program) unless this action is in conformance with the RA map.

Claims 2-18 are met by that discussed above.

### *Conclusion*

3. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents  
Washington, D.C. 20231

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on \_\_\_\_\_  
(Date)

Typed or printed name of person signing this certificate:

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Signature: \_\_\_\_\_

### Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

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Signature: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

4. Any response to this action should be:

(a) mailed to: Commissioner of Patents and Trademarks

Washington, D.C. 20231

(b) or faxed to: (703) 872-9314 for either formal communications intended for entry, or informal or draft communications (please label "PROPOSED" or "DRAFT")

(c) or hand-delivered to: Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor  
(Receptionist).

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Miller whose telephone number is (703) 305-4795. The examiner can normally be reached on Monday through Friday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached at (703) 305-4380. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

John W. Miller

September 29, 2001



John W. Miller  
Primary Examiner  
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